

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Kojo Soweto Ameen, #90517,)	
)	C.A. No. 9:10-00135-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Officer D. Brown,)	
)	
Defendants.)	
_____)	

Plaintiff Kojo Soweto Ameen, proceeding *pro se*, filed the within action pursuant to 42 U.S.C. § 1983 on January 20, 2010 against the South Carolina Department of Corrections (SCDC), and Officer D. Brown (“Brown”). Plaintiff, is housed at Lee Correctional Institution. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. On January 28, 2010, Plaintiff was granted leave to proceed *in forma pauperis*. That same day, the Magistrate Judge issued a Report and Recommendation recommending that Plaintiff’s complaint be dismissed only as to SCDC for failure to state a claim upon which relief can be granted. On May 12, 2010, the court entered an order adopting the Report and Recommendation and dismissing SCDC as a defendant in the case.

This case is before the court on Brown’s motion for summary judgment, which was filed on May 27, 2010. Pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the court issued an order on May 28, 2010, advising Plaintiff of the procedure for motions to dismiss and motions for summary judgment and the possible consequences if he failed to respond adequately. On June 14, 2010, Plaintiff responded to the motion to dismiss. On October 13, 2010, the Magistrate Judge issued a Report and Recommendation recommending that Brown’s motion for summary judgment

be granted. On October 25, 2010, Plaintiff filed objections to the Report and Recommendation.

BACKGROUND

In his complaint, Plaintiff alleges that on November 10, 2005, Brown, a correctional officer, assaulted him. Plaintiff asserts that the altercation began when Brown entered his cell, asked Plaintiff's cellmate to leave and attempted to verbally provoke Plaintiff. Plaintiff contends that Brown subsequently began to choke Plaintiff, slammed his head into the top bunk of a bunk bed, and kicked Plaintiff's feet from under him. Plaintiff alleges that these actions caused him to hit his head on the floor. According to Plaintiff, he was taken to a hospital and diagnosed with a head injury. Plaintiff alleges that he continues to take pain medication for the injuries that resulted from Brown's assault. Plaintiff seeks monetary damages to compensate him for Brown's assault.

DISCUSSION

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight and the responsibility for making a final determination remains with this court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The court is charged with making a *de novo* determination on any portions of the Report and Recommendation to which a specific objection is made. *Id.* The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge. 28 U.S.C. § 636(b)(1).

In his objections, Plaintiff indicates that he “ha[s] documents to show and prove” his claim, but that he “do[es] not have funds to mail documents nor [the] means to get cop[ies] made [] at Lee Corr[ectional] [I]nstitution.” Pl. Obj. at 1. Plaintiff states that he is in lock down. *Id.* The court construes Plaintiff's objections as a request for an extension of time to file documents in support of his case. Petitioner has thirty (30) days from the date of entry of this order to submit his

documentation in opposition to summary judgment.

CONCLUSION

Petitioner has thirty (30) days from the entry of this order to submit his documentation in opposition to summary judgment. Defendant Brown will then have ten (10) days to file any response. The court holds in abeyance a ruling on the Magistrate Judge's Report and Recommendation.

IT IS SO ORDERED.

s/ Margaret B. Seymour
The Honorable Margaret B. Seymour
United States District Judge

November 19, 2010
Columbia, South Carolina